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**Subject:** Cross-Cutting Issues News for October 11, 2016



## Cross-Cutting Issues News for October 11, 2016

**Bloomberg BNA Daily Environment Report™**

### NEWS

#### *Climate Change*

#### Aviation Emissions Deal Could Be Model for Shipping: EU Official

An international agreement on carbon-neutral growth for the aviation industry could prove a template for curbing greenhouse gas emissions from shipping, the European Union's top transportation official said

Oct. 7....

### *Climate Change*

#### FHWA Offers Advice on CEQ's NEPA-Climate Guidance

Steps to help transportation agencies consider potential greenhouse gas emissions from highway projects and analyze how climate change might affect projects were outlined by federal highway officials in an Oct. 4 webinar....

### *Endangered Species*

#### Pacific Bluefin Tuna Considered for U.S. Protections

The Pacific bluefin tuna, a favorite target of much commercial and recreational fishing and a prized food in sushi restaurants, will be evaluated for possible protection under the Endangered Species Act, NOAA's National Marine Fisheries...

### *International Climate*

#### Airline Pollution Deal Hinges on World of Carbon Offsets

The United Nations aviation climate accord hinges on creating a system requiring companies to spend billions of dollars to protect forests, build solar farms and more. The trick will be ensuring those projects are legitimate....

### *International Climate*

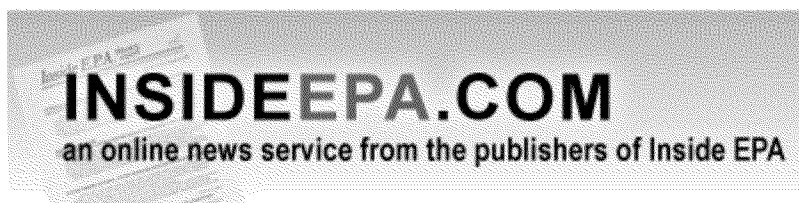
#### Climate Pact Transparency May Spur Collaboration: Officials

Transparency requirements included in the Paris Agreement set to take effect in November may spur additional action and collaboration in battling climate change, federal and state officials said Oct. 7....

### *International Climate*

#### Germany Says It May Miss Carbon Target, Days After Paris

Germany, the biggest economy in Europe that spews the most greenhouse gas, says it will struggle to achieve voluntary emission cuts by the end of the decade....



Inside EPA's **Risk Policy Report**, 10/11/2016

<http://insideepa.com/newsletters/risk-policy-report>

#### Latest News

### **EPA Moves To Update Emission 'Factors' For Oil And Gas Drilling Sector**

EPA has agreed to update old emissions "factors" -- estimates of air pollution -- from natural gas drilling operations, moving to settle a lawsuit brought by environmentalists who charge that the factors are years out of date and result in serious underestimates of pollution that could lead to weaker emissions control strategies for the sector.

### **Justices Poised To Decide On Taking Case Over Agencies' Rule Deference**

The Supreme Court could decide as soon as Oct. 14 whether to take a case where states and conservative groups are trying to end a landmark precedent giving EPA and other agencies broad deference to interpret the meaning of their own rules, but court watchers say it is unclear if the court will take the case as it touches on polarizing social issues.

# Greenwire

## **WILDLIFE:**

### **Welcome to FWS's anti-trafficking school**

Corbin Hiar, E&E reporter

Published: Monday, October 10, 2016



Members of the inaugural class of the International Conservation Chiefs Academy celebrate their graduation. Photo by Corbin Hiar.

Nearly three dozen top wildlife enforcement officials from sub-Saharan Africa visited the United States last month as part of the Obama administration's increasingly international effort to combat wildlife trafficking.

Over 13 days, the African park managers, wildlife crime prosecutors and intelligence directors toured training facilities in Colorado and West Virginia during the first-ever International Conservation Chiefs Academy.

Led by the Fish and Wildlife Service's Office of Law Enforcement, the academy brought together officers from 12 countries and their U.S. counterparts to discuss topics ranging from tracking criminals to collecting evidence.

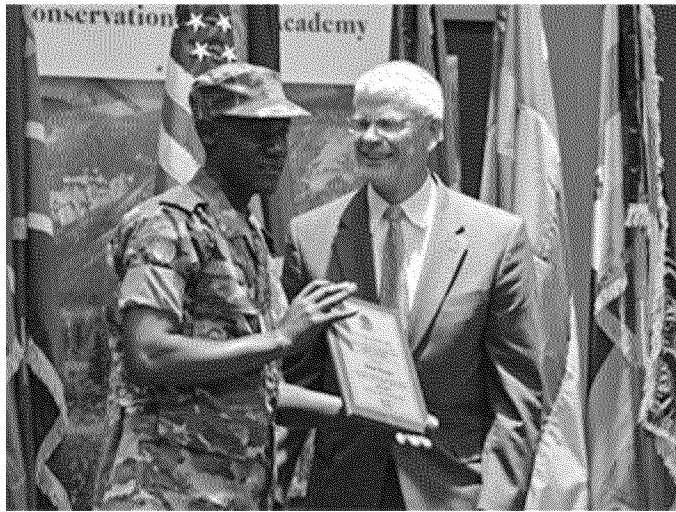
The decline of "species — great and small, beloved and obscure — is an ominous sign for the health of the planet and the billions of people that it sustains," FWS Director Dan Ashe told the officials at an evening forum early in their visit.

To combat the wildlife trafficking that is decimating many African species, "we need to do more and better," Ashe said at National Geographic Society headquarters in Washington, D.C. "And this assemblage of people is that hope — that we can and will be better in the days ahead in meeting this cause."

The academy is modeled on a similar FWS-led state program that for the last three years has focused on fostering cooperation between state wildlife chiefs and their federal counterparts, bringing them together for a few weeks of formal and informal learning.

"Anytime that you're trying to share data through some mechanism or a database, it's always hard," Curtis Brown, the Florida Fish and Wildlife Conservation Commission's law enforcement director, said at the National Geographic forum.

"You need to sit down together and have face-to-face conversations," Brown said. "And a lot of times it happens over a beer or dinner. So that's what we're really trying to do, is do a better job of getting together and sharing that valuable information."



William Woody, the Fish and Wildlife Service's chief of law enforcement, congratulates Ugandan wildlife prosecutor Peter Ewau on taking part in the academy. Photo by Corbin Hiar.

Several African officials at the end of the State Department-funded training praised the program as a clear and — to some — unexpected sign of the United States' commitment to curbing the illegal wildlife trade. Despite dozens of American-funded anti-poaching programs in Africa, many of the wildlife chiefs who came to the academy told E&E News they had doubted that the United States really cared about the issue.

"Our thought was that these people do not have elephants — do not have much wildlife," said Peter Ewau, a prosecutor who is based in Uganda's Murchison Falls National Park. He also cited the United States' ranking as the second-largest consumer country of illegally trafficked wildlife and wildlife products, behind only China.

"But when we came here, we got that the U.S. feels a lot of pain when a single elephant dies," Ewau, who was dressed in a baggy camouflage uniform typical of many East African wildlife officials, said at the National Conservation Training Center in Shepherdstown, W.Va.

What most moved Churchill Collyer, the director of law enforcement for Botswana's Department of Wildlife and National Parks, was "when we visited the repository in Denver," he said. The National Wildlife Property Repository is a 22,000-square-foot facility located in the Rocky Mountain Arsenal National Wildlife Refuge where seized wildlife contraband is stored and eventually destroyed.

"I never thought that I would find so many products that come from Africa that have been confiscated in America — more than 1.6 million products," he said, shaking his head. "That is huge."

Collyer added that the haul represents only a fraction of the harm poachers have inflicted on Africa.

For instance, the largest continentwide wildlife survey recently found that around 144,000 elephants had been poached between 2007 and 2014 — nearly a third of the total population. Other studies have linked trafficking of elephant ivory, rhino horn and other illicit wildlife products to government corruption, economic weakness and militant movements.

# FWS's global attaché program

The little-known Fish and Wildlife Service international attaché program aims to break wildlife trafficking rings by placing FWS law enforcement agents in the embassies of key nations.

The nearly three-year-old program — which offers training, equipment and investigative expertise to foreign wildlife officials — is central to FWS's strategy to crack down on organized criminal networks, which researchers have found are the main drivers of the illicit trade.

"If we could have foreseen the future 20 years ago, the powers in Fish and Wildlife would have put attachés out some time ago," said William Woody, the agency's chief of law enforcement.



George Phocas, the Fish and Wildlife Service's Bangkok attaché. Photo by Corbin Hiar.

George Phocas, who has been stationed in Thailand since March 2014, was the first attaché to be deployed abroad. FWS has also placed agents in Dar es Salaam, Tanzania; Gaborone, Botswana; Lima, Peru; and Beijing. In January, Woody plans to send an attaché to Libreville, Gabon — the agency's first foray into Francophone Africa.

David Hubbard, the special agent in charge of the new International Operations Unit, said that in the near future FWS would also like to place attachés in Jakarta, Indonesia, Mexico City and somewhere in the European Union.

To avoid corruption, the attachés mainly work with officials and groups that have already been vetted by the U.S. Drug Enforcement Agency, Hubbard said. He also noted that wildlife traffickers often use the same transit routes as drug smugglers.

The attaché program doesn't have its own budget yet, FWS officials said. But according to Director Dan Ashe and others, the attachés are already proving their worth.

"We've seen the tremendous value that these agents provide in improving our collaboration and information sharing," Ashe said recently. "They're dramatically expanding the reach and the effectiveness of our law enforcement effort and communication among law enforcement agencies across the globe."

Phocas said he could not comment on investigations he has taken part in because they are still working their way through local court systems. But the 25-year FWS veteran said he assisted on over two dozen cases in Southeast Asia that involve trafficked goods with street values of over \$1 million and one that is closer to \$100 million — numbers that Hubbard later confirmed.

Hubbard described one major case his team worked on that stemmed from a suitcase full of elephant tusks intercepted in Zurich.

FWS and its international partners followed cellphone records and other digital evidence from Switzerland back to a 66-year-old Chinese woman in Tanzania dubbed the "Ivory Queen," he said. Yang Feng Glan was eventually charged with heading a criminal network that smuggled 706 pieces of ivory worth over \$2.5 million between 2000 and 2014 ([Greenwire](#), Feb. 10).

— Corbin Hiar

Such goods are stored in similar government-run facilities in many Asian countries, the Botswana leader noted.

"You can imagine how this went about, went away from our countries, up to being intercepted in America," he said. "The question is, how much are we doing as Africans?"

## **'It takes a network'**

The training program also provided an opportunity for the 35 African officials to connect with George Phocas, an FWS attaché based in Bangkok.

Attachés like Phocas aim to provide assistance and maintain the international law enforcement network that the African officials began forming at the academy, said William Woody, the agency's chief of law enforcement.

"The attaché program is strongly tied into this training because they are a conduit to these guys and the things that these guys will need," he said (*see sidebar*). Woody oversees a force of around 500 agents and inspectors, the vast majority of whom are based in the United States.

The attaché program and the academy, which was bankrolled by the State Department's Bureau of International Narcotics and Law Enforcement Affairs, were both made possible because of President Obama's executive order on wildlife trafficking in 2013, said David Hubbard, the special agent in charge of the fledgling International Operations Unit.

That order called for the development of a national strategy to combat the illegal trade and provided a strong incentive for every agency to aid in the fight ([Greenwire](#), July 1, 2013).

The Government Accountability Office recently raised concerns about the lack of specific goals that the Obama administration had established for combating wildlife trafficking and the difficulty that will pose in tracking the success of individual programs ([Greenwire](#), Sept. 23).

But FWS officials argued the new programs are already having a positive impact.

And on Friday, Obama signed into law the Eliminate, Neutralize and Disrupt (END) Wildlife Trafficking Act, [H.R. 2494](#). It will name and shame countries profiting from illegal trade and will increase penalties for traffickers ([E&E Daily](#), Sept. 22).

Before the president elevated the issue, the United States' efforts were mainly limited to hanging anti-poaching posters abroad and searching U.S. ports for contraband wildlife products, longtime FWS agents said.

Now the administration realizes that "it takes a network if you want to disrupt a network," said Randy Stark, the executive director of FWS's state academy. He led a training session on "adaptive leadership," which was intended to help the African officials adjust to challenging environments.

The international academy also focused on ways to combat corruption, the value of specialized courts and prosecutors for wildlife cases, development of intelligence on criminal networks, collection and leveraging of digital evidence, and tactics for analyzing, tracking and managing physical evidence. Hubbard led a session on the attaché program, as well.

The importance of sharing intel, evidence and other resources across borders was a recurring theme, according to all of the wildlife chiefs that E&E News interviewed.

"Criminals recognize no borders," said one southern African wildlife intelligence director, who requested anonymity to avoid attracting attention back home. Loosening the double Windsor knot on his tie after the academy's graduation ceremony, the official said he would begin pushing for the prosecution of traffickers in other countries, where the laws and judicial systems are stronger.

## **Future of the fight**

FWS's Woody hopes to expand the emerging network of law enforcement leaders by inviting Asian officials to an upcoming international academy. He may also attempt to bring a second class of African leaders in 2017.

"I have already received funding for the one for next year," he said. "My bigger issue right now that I'm really trying to decide is, I've got a number of Asian countries that want to come."

The international academies also provide FWS with an opportunity to forge relationships with wildlife leaders on the rise and promote its attaché program. For instance, a Tanzanian national park official said that, before arriving in the United States, he hadn't been aware that FWS had an agent posted in his nation's capital.

"These are guys that have probably eight to 20 years of experience that are still moving up the chain at their respective agencies and may one day be the leaders of their agencies," Woody said of the inaugural class. "It would be very rewarding to see many of the Africans who are here to continue moving up. And from everything I've seen and heard from them, they're absolutely top-notch."



International Operations Unit leader David Hubbard accepts the Interior Department's highest honor for his role in Operation Crash, a global investigation that has netted nearly 30 convictions and over \$7.4 million in fines and restitution. Photo by Corbin Hiar.



For the African officials, it was an opportunity to share the successes and challenges they'd had in battling the incentives that drive and reinforce wildlife trafficking — everything from greed and graft to poverty and warfare.

At dinner on the final night of the international academy, for example, an official from Namibia talked with an FWS agent about the difficulty his country has with quickly and effectively analyzing abalone samples. In many cases, testing is necessary to determine if sea snail shipments were legally harvested.

"We can help you with that," the agent responded.

That sort of informal exchange, over heaping plates of macaroni and cheese and barbecued ribs, is exactly the sort of collaborative crime-fighting that the training program aimed to enable.

The question now for U.S. wildlife officials is how long robust funding for efforts like the international academy and attaché program will continue from the White House and Capitol Hill.

"There are a lot of hoses feeding into combating wildlife trafficking right now," said Stark of the state academy. "My hope is, if there is a problem with one stream, that they aren't all shut off."

## **DAKOTA ACCESS:**

### **Construction now 'would be a tragedy' — critics**

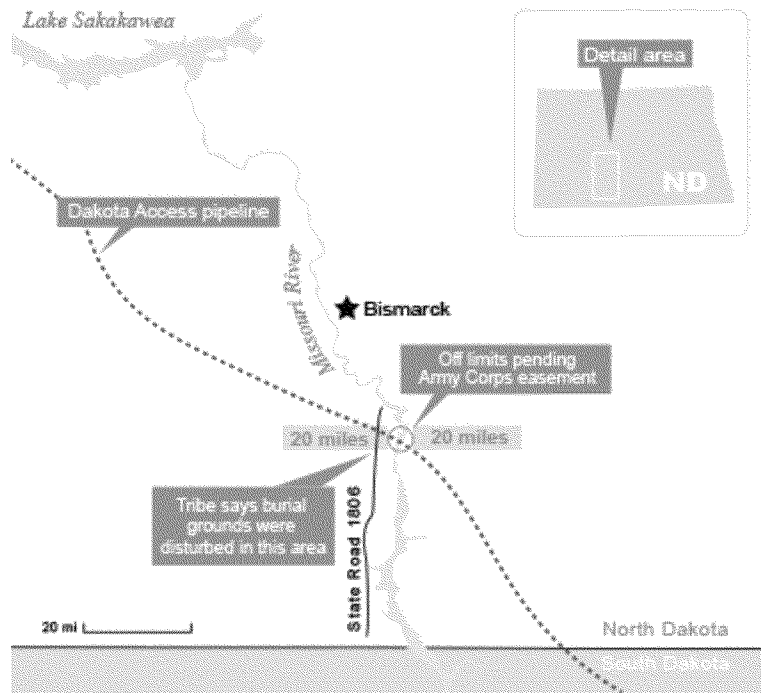
Ellen M. Gilmer, E&E reporter

Published: Monday, October 10, 2016

American Indian tribes are urging Dakota Access pipeline backers to hold off on construction plans, despite a federal court order yesterday lifting a work freeze on part of the embattled oil project.

Lawyers for the Standing Rock Sioux Tribe noted that while the U.S. Court of Appeals for the District of Columbia Circuit refused to extend an injunction on a contested stretch of the pipeline's route, the Obama administration is still weighing whether to grant a necessary easement across Lake Oahe, part of the Missouri River.

## **Contested area of Dakota Access route**



[+] Map by E&E News.

Dakota Access LLC should grant the administration's September request that it voluntarily delay nearby construction until that easement is issued, Earthjustice attorney Jan Hasselman said.

"We call on Dakota Access to heed the government's request to stand down around Lake Oahe," Hasselman said in a statement. "The government is still deciding whether or not Dakota Access should get a permit. Continuing construction before the decision is made would be a tragedy given what we know about the importance of this area."

The disputed area is a 20-mile stretch of North Dakota land near Lake Oahe. Though the 1,172-mile pipeline, which would travel from North Dakota to Illinois, is routed primarily on private land, the area includes the Sioux's ancestral homelands, and several tribes worry that cultural artifacts have been disturbed by construction.

They also say the Army Corps of Engineers did not adequately consult with tribes when it approved Clean Water Act permits for the pipeline's water crossings. The Lake Oahe crossing is just a half-mile north of the Standing Rock reservation.

While Lake Oahe itself remains off-limits as the easement is pending, yesterday's court order allows Dakota Access LLC to resume construction within 20 miles of it ([Greenwire](#), Oct. 9). The 20-mile section east of the lake is mostly complete. The 20-mile section west of the lake is partially complete and extremely contentious, as the Sioux say they recently discovered evidence of burial grounds in the area.

"This ruling puts 17 million people who rely on the Missouri River at serious risk," Standing Rock Sioux Tribe Chairman Dave Archambault II said in a statement. "And, already, the Dakota Access Pipeline has led to the desecration of our sacred sites when the company bulldozed over the burials of our Lakota and Dakota ancestors. This is not the end of this fight. We will continue to explore all lawful options to protect our people, our water, our land, and our sacred places."

Thousands of tribal members and environmentalists have gathered near Lake Oahe in recent months to protest the pipeline, sparking the administration's delay in issuing the easement (*EnergyWire*, Sept. 12). The neighboring Cheyenne River Sioux Tribe has joined the litigation, and the Yankton Sioux Tribe filed a separate lawsuit.

During oral arguments last week, the three-judge panel of the appeals court appeared skeptical of the Sioux's emergency request for an injunction (*EnergyWire*, Oct. 6). Yesterday's order concluded that the tribe did not meet the legal requirements for an injunction, but the court seemed sympathetic to its complaints about inadequate consultation.

"Although the tribe has not met the narrow and stringent standard governing this extraordinary form of relief, we recognize Section 106 of the National Historic Preservation Act was intended to mediate precisely the disparate perspectives involved in a case such as this one," the order said.

Dakota Access "has rights of access to the limited portion of pipeline corridor not yet cleared — where the tribe alleges additional historic sites are at risk," the order added. "We can only hope the spirit of Section 106 may yet prevail."

Supporters of the pipeline argued this weekend that the Army Corps and the developer exceeded consultation and National Historic Preservation Act (NHPA) requirements, pointing to a preliminary decision from U.S. District Court Judge James Boasberg that reviewed the project's history.

"As laid out in Judge Boasberg's opinion, the corps consulted 389 times with 55 tribes including the Standing Rock Sioux," the Midwest Alliance for Infrastructure Now said in a statement. "Not only was the letter of the law met, but considering the lengths the corps and Dakota Access, LLC, went, so too was the spirit."

The appeals court will now consider whether to uphold the district court's September ruling that rejected the tribe's request for a broader injunction along the length of the pipeline. Meanwhile, the core merits of the case — whether the Army Corps met its consultation and NHPA responsibilities — remain pending at the district court.

## **FEDERAL AGENCIES:**

### **Bloomberg, Schwarzenegger floated for EPA, DOE chiefs in '08**

Robin Bravender, E&E reporter

Published: Monday, October 10, 2016

When the Obama transition team was drafting its short lists for top agency jobs back in 2008, then-New York Mayor Michael Bloomberg was floated as a contender for U.S. EPA administrator, according to hacked emails allegedly from John Podesta's private account.

The emails from Podesta — Hillary Clinton's campaign chairman and former chairman of the Obama transition team — were posted by the group WikiLeaks. The Clinton campaign did not immediately respond to a comment about the veracity of the leaked documents.

According to the emails, Bloomberg was among the possible EPA candidates discussed between Podesta and another transition team official, Cassandra Butts. In September 2008 — before Obama had clinched the White House — Butts sent Podesta a list of names "that have come to us as we have consulted on top candidates for Energy and EPA." She noted, "Needless to say, your name has come up repeatedly in our conversation."



John Podesta. Photo courtesy of the White House.

In addition to Bloomberg, the EPA list consisted of then-Washington Gov. Christine Gregoire (D); Jason Grumet, the founder and president of the Bipartisan Policy Center; David Hayes, who went on to become deputy secretary of the Interior Department; Howard Learner, executive director of the Environmental Law and Policy Center; then-Kansas Gov. Kathleen Sebelius (D), who became secretary of Health and Human Services; and Todd Stern, who went on to be a top State Department climate official.

The Energy Department list included then-California Republican Gov. Arnold Schwarzenegger; George Frampton, former Council on Environmental Quality head during the Clinton administration; Shirley Ann Jackson, former chairwoman of the Nuclear Regulatory Commission; Elgie Holstein, who was previously DOE chief of staff; General Electric Co. CEO Jeff Immelt; Jonathan Pershing, who worked at DOE and the State Department during the Obama administration; and Brian Schweitzer (D), who was governor of Montana.

Podesta wrote back that day, "These seem wildly different in potential although all could play a roll."

He said in another email, "Gee, pershing are asst sec types not higher. Holstein maybe as deputy not top job. Jackson has a good rep, AA woman, should be considered. Immelt seems impossible to me. Maybe commerce but very unlikely at energy.

"I'd add Tom Steyer, Farallon Capital, Tim Wirth, maybe mayor hickenlooper of denver.

"At epa 3 more katie mcginty, just left pa enviro office, ian bowles, mass epa, dan esty at yale."

In a separate email that day, Podesta wrote, "One more for epa dianna farrell of mckinsey global."

The top EPA job ultimately went to Lisa Jackson, to whom Podesta was presumably referring in his email. And the DOE secretary job was filled by Steven Chu during Obama's first term.

Both the Clinton and Donald Trump transition teams are likely amassing the same types of shortlists right now for potential candidates for top administration jobs. Some of the same names that were bounced around in 2008, like Gregoire, Hickenlooper, Hayes and Schweitzer, have been mentioned as possible candidates for top jobs in a possible Hillary Clinton administration.

Podesta wrote last week on Twitter as a first batch of emails was released, "I'm not happy about being

hacked by the Russians in their quest to throw the election to Donald Trump. ... Don't have time to figure out which docs are real and which are faked..."

*Reporter Hannah Northey contributed.*

## **EPA:**

### **McCarthy defies Inhofe with appointee to scientific board**

Sean Reilly, E&E reporter

Published: Monday, October 10, 2016

U.S. EPA Administrator Gina McCarthy has filled a vacancy on the Clean Air Scientific Advisory Committee with a past member from Illinois, rebuffing objections to the appointment from Sen. Jim Inhofe (R-Okla.) and calls for broader geographic representation on the influential panel.

McCarthy named Donna Kenski last week to the seven-member committee, with the news quietly posted on an agency website Friday. Kenski, head of data analysis at the Chicago-based Lake Michigan Air Directors Consortium, had previously served on the panel from 2008 to 2010.

She was among seven nominees for the three-year appointment, which is set aside for a representative of state air pollution control agencies.



Donna Kenski. Photo courtesy of Donna Kenski.

In a statement, EPA spokeswoman Monica Lee said that Kenski's appointment fulfilled the statutory requirement, but otherwise shed no light on the rationale behind it.

The committee, usually known by its acronym as "CASAC," is charged with providing independent technical and scientific expertise to EPA's periodic reviews of the ambient air standards for ozone, nitrogen oxides and four other "criteria" pollutants named in the Clean Air Act. It's currently in the early stages of a reconsideration of the particulate matter thresholds that is already attracting close scrutiny from industry and environmental groups.

In a July letter to McCarthy, Inhofe, chairman of the Senate Environment and Public Works Committee,

had questioned whether Kenski could impartially review and make recommendations for some of the air quality standards that she dealt with in her previous term on the panel ([E&ENews PM](#), July 21).

Kenski had rebuked Inhofe's concerns as "ill-founded" ([Greenwire](#), July 22).

In a Friday email, Kenski, whose resume includes a doctorate in public health, declined to comment further on what she called the "Inhofe kerfuffle."

"I will say that it is an honor and a privilege to be selected, and I am excited about this opportunity to work with EPA and fellow panelists," she said.

An Inhofe spokeswoman could not be reached for comment Friday or today. But in a statement released over the weekend, the head of one business advocacy group attacked McCarthy's decision as evidence that EPA "does not care about independent voices and fresh perspectives."

The agency had "numerous, highly qualified nominees to choose from," Karen Kerrigan said on behalf of the Center for Regulatory Solutions, an offshoot of the Small Business and Entrepreneurship Council.

"This decision proves that CASAC is simply a tool of the EPA — with candidates selected on their predisposition to agree with EPA's predetermined conclusions," Kerrigan said.

Among the other nominees were state regulators from Georgia, Arkansas, Ohio and Texas. Kenski's appointment was a particular setback for Michael Honeycutt, director of toxicology for the Texas Commission on Environmental Quality, who had mounted an unusual lobbying campaign to rally support for his candidacy ([Greenwire](#), Aug. 26).

In a statement released late Friday by a commission spokeswoman, Honeycutt wished Kenski the best and called her "highly qualified" to serve on CASAC. He also expressed continued interest in joining the committee if nominated when Kenski's new term expires in three years.

Inhofe, along with other lawmakers and business advocates, had also urged McCarthy to correct what they see as a tilt in favor of appointees from California and the Northeast to the detriment of the South and West.

The Association of Air Pollution Control Agencies, whose membership includes numerous states in the latter two regions, had also cited concerns that state and local agencies were not adequately represented on the CASAC and the "subpanels" that do much of the work in reviewing standards for specific pollutants.

In an interview, Clint Woods, the association's executive director, said the group was "very pleased" that some of the nominees came from its member agencies and that McCarthy had a "very highly qualified pool" to choose from. The association will continue to urge EPA to consider candidates' abilities to offer "on the ground" perspectives in implementation of air quality standards and other issues when making future advisory committee appointments, he said.

Kenski replaces George Allen, a senior scientist with the Boston-based Northeast States for Coordinated Air Use Management, who had served two terms on the committee. Allen's term was set to expire at the end of last month; following standard practice, Allen said in an email Friday that he will continue to serve on CASAC review subpanels for particulate matter, sulfur dioxide and nitrogen dioxide.

## **SWING STATES:**

# Management of public lands dominates political debate

Jennifer Yachnin, E&E reporter

Published: Monday, October 10, 2016



Sandhill cranes at the Monte Vista National Wildlife Refuge in Colorado, a state that is ground zero for political fights over the use of public lands. Photo courtesy of Colorado.gov.

*Sixth in a series.*

Democrats swept recent presidential cycles in Colorado after President Obama accepted his party's nomination there in 2008, upending Republican dominance in all but three presidential races since the end of World War II.

But the Centennial State is far from turning solidly blue — as Republican Sen. Cory Gardner's 2014 victory over then-Sen. Mark Udall (D) can attest — and Democratic presidential nominee Hillary Clinton and Republican presidential candidate Donald Trump are fighting it out for the state's nine-electoral votes.

## AN E&E SERIES



A look at the key issues and most competitive down-ballot races in presidential battlegrounds.

Clinton, who lost her party's primary in Colorado to Vermont Sen. Bernie Sanders, has shored up support from senior Democratic lawmakers, including former Secretary of the Interior Ken Salazar (D), who will

lead her campaign's transition team, as well as Gov. John Hickenlooper (D), who was reportedly on Clinton's short list for vice presidential running mates.

Trump has more recently culled support from Gardner, who backed Florida Sen. Marco Rubio in the GOP presidential primary, then waited until August to shift his support to the GOP nominee.

On the campaign trail, Clinton and Trump have found an abundance of policy to spar over in Colorado — including energy production and climate policy, while at times offering similar commentary on the future of public lands and even how hydraulic fracturing should be regulated.

## Public lands

Among the few areas of agreement Clinton and Trump have reached this cycle, both candidates have voiced a desire to retain control of federal public lands, bucking demands from conservative Republicans who would like those properties turned over to state control.

In a late September campaign stop in Grand Junction, Colo., Donald Trump Jr., who has served as his father's surrogate to the sportsmen's community, vowed that the Republican nominee would reject efforts calling for the wholesale disposal of public lands.



Donald Trump Jr. spoke at a sportsmen's event in Grand Junction, Colo., last month. Photo courtesy of Colorado Sportsmen "Make America Great" via Facebook.

"We don't want to divest the land. We want to make sure that that land, public land, stays public. That's been one of the places where we've really broken away from conservative dogma," Trump Jr. said (*E&ENews PM*, Sept. 23).

But the younger Trump added that his father would look to extend state oversight of those lands, echoing remarks the candidate made in a *Reno Gazette* op-ed earlier this year in which he criticized the "draconian rule" of the Bureau of Land Management.

Although Trump objected to the turnover of federal lands in the GOP primary, he himself has been silent on the issue in recent months, refusing to discuss the subject in an interview with a Denver television station last month and not responding to a request from a coalition of conservation and sportsmen's groups seeking his pledge to protect access to public lands.



But the Democratic nominee has openly embraced that request, and Clinton vowed last month that: "Public lands must stay in public hands" ([E&E Daily](#), Sept. 8).

Earlier this year, Clinton unveiled her "[great outdoors](#)" platform, which calls for an expanded program to acquire new federal land, conserve private property and promote local recreation via an American Parks Trust Fund funded at \$1.8 billion.

Clinton has also vowed to open access to 2 million acres of public land that are currently inaccessible to hunters, anglers and recreationists by securing voluntary conservation partnerships with private landowners and state governments in order to create new access points, trails and easements.

## Local control

Colorado voters will not have a chance in November to vote on a pair of ballot measures aimed at curbing the development of new hydraulic fracturing in the state — signature petitions for the measures fell short of requirements last month — but both Clinton and Trump have cited their support for local control of the drilling practice.

During the Democratic primary, Clinton endorsed allowing state and local governments to curtail fracking but did not support an outright national ban on the practice, like her rival Sanders did.

Instead, Clinton argued for regulations on water contamination and disclosures for the chemicals used in fracking fluids, as well as regulating methane leaks, asserting that such careful monitoring would in itself reduce the number of fracked wells.

"So by the time we get through all of my conditions, I do not think there will be many places in America where fracking will continue to take place. And I think that's the best approach, because right now, there are places where fracking is going on that are not sufficiently regulated," Clinton said during a primary debate in Michigan ([E&E Daily](#), March 7).

But that stance puts Clinton out of step with western Democrats including Hickenlooper, who has openly lobbied against past potential ballot measures that would reduce fracking in the state.

In the meantime, Trump surprised political observers when he told a Denver television station last month that while he supports fracking, states should be allowed to determine whether the process can be banned ([ClimateWire](#), Aug. 1).

"I think that voters should have a big say in it," Trump said. "I mean, there's some areas, maybe, that don't want to have fracking, and I think if the voters are voting for it, that's up to them."

But Continental Resources Inc. founder Harold Hamm, who is advising Trump on energy policy and has been rumored to be a potential Energy secretary pick in a Trump administration, dismissed the Republican's comments a few weeks later at a Denver event.

"That kind of sounds Republican, local control," Hamm said. "Let me tell you, Donald Trump is pro-business, he is pro-energy, and he is not going to shut down fracking or drilling or anything else" ([E&ENews PM](#), Aug. 23).

In a speech in North Dakota earlier this year, Trump did, however, disparage a Bureau of Land Management rule that would have governed fracking on public and tribal lands. The U.S. District Court for the District of Wyoming struck down that regulation in June ([EnergyWire](#), June 22).

## Climate policy

The future of the Obama administration's Clean Power Plan lies in the hands of the U.S. Court of Appeals for the District of Columbia Circuit following last week's oral arguments but with Hickenlooper considering an executive order that closely mirrors the regulation's goals, it could come into play in the presidential election (*Greenwire*, Sept. 28).

In August, a draft leaked of Hickenlooper's proposal to reduce carbon dioxide emissions from the state's power sector by 35 percent by 2030, just shy of the 38.3 percent outlined in the Clean Power Plan (*E&E Daily*, Aug. 24).

That plan comes despite Colorado's participation as one of 27 states that challenged the Clean Power Plan, an effort lead by state Attorney General Cynthia Coffman (R).

Environmentalists in the state suggest the plan could sway voters to support Clinton, as impacts from climate change like the mountain pine beetle's spread and forest fires become more evident.

Clinton has vowed to continue the Obama administration's efforts to reduce carbon emissions, as well as backing a moratorium on new coal leases on public lands.

But that stance could also turn off both independent and centrist Republicans in the state where the fossil fuel industry remains a major employer.

Trump has vowed to repeal regulations that restrict the energy industry's production, as well as to open more public lands for oil and gas drilling and mining.

## Poll vault

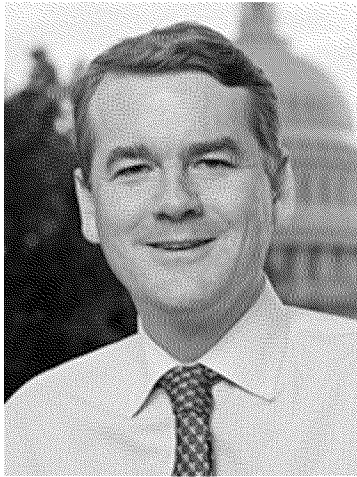
With a young and growing population, and a strong Hispanic vote, Colorado was thought to favor Democrats this presidential cycle. But polls this fall have been all over the place &mdash; and the bottom line is, Clinton has not been able to pull away from Trump. The three latest Centennial State presidential surveys:

**Gravis Marketing/Breitbart News Network:** Clinton 40%, Trump 40%. Poll of 1,246 registered voters taken Oct. 3-4, with a 2.8-point margin of error.

**Monmouth University:** Clinton 49%, Trump 38%. Poll of 400 likely voters taken Sept. 29-Oct. 2, with a 4.9-point margin of error.

**Keating Research:** Clinton 44%, Trump 33%. Poll of 602 likely voters taken Sept. 27-29, with a 4-point margin of error.

## Down-ballot races



Once considered vulnerable, Sen. Michael Bennet (D) now seems secure. Photo courtesy of Wikipedia.

While Republicans had hoped to make Colorado another battleground Senate race — the seat is one of only two competitive Senate seats held by Democrats this cycle — the party failed to recruit a top-tier challenger to take on Democratic Sen. **Michael Bennet**.

Instead, Bennet is the favorite to win against El Paso County Commissioner **Darryl Glenn** (R), who has raised comparatively little money and received no financial support from the National Republican Senatorial Committee.

Despite winning an endorsement from the League of Conservation Voters, Bennet has sought to position himself in support of the oil and gas industry in his state, backing construction of the failed Keystone XL pipeline and lifting the crude oil export ban, as well as opposing U.S. EPA's stricter ozone standard (*Greenwire*, Aug. 27, 2015).



State Sen. Morgan Carroll (D). Photo courtesy of Emily's List.

Elsewhere in the state, Democrats hope to flip a pair of Republican-held House seats, one held by perennial target Rep. **Mike Coffman** in the suburban Denver 6th District, the other by Rep. **Scott Tipton** in the sprawling western 3rd District.

In the 6th District, state Sen. **Morgan Carroll** hopes to become the Democrat to finally oust Coffman, who has repeatedly survived challenges in the evenly divided district.

In the 3rd District, which covers the state's Western Slope and extends to Pueblo, Tipton faces an unusually strong challenge from former state Sen. **Gail Schwartz** (D).

Schwartz has focused her campaign in part on criticizing Tipton for his support of turning federal public lands over to state control, arguing that action would open up lands to more drilling and mining activity.

*Tomorrow: A look at New Hampshire.*

## **EPA:**

### **Ex-chief Whitman to vote for Clinton 'this one time'**

Kevin Bogardus, E&E reporter

Published: Monday, October 10, 2016

Former U.S. EPA Administrator Christine Todd Whitman (R) said that if Republican presidential nominee Donald Trump doesn't step aside, she will vote for his Democratic opponent, Hillary Clinton.

In a statement emailed to E&E News today by a spokeswoman, Whitman said that Trump is not qualified to hold elected office, especially in light of Friday's release of video where the business tycoon made lewd comments and boasted about sexually assaulting women.

"Trump should step down and allow someone who holds traditional Republican values to represent our party. If he refuses to do the right thing, then I feel I can only truly say #NeverTrump if I am willing to say #thisonetimeHillary," Whitman said.

Several prominent Republican lawmakers have made similar statements, saying they cannot support Trump because of his comments in the video.

Whitman's statement comes after she authored an op-ed in New Jersey's *The Star-Ledger* titled "Why Clinton is the only choice for president." The former New Jersey governor's op-ed was posted online only a few hours before the tape of Trump's crude remarks were reported by *The Washington Post* on Friday.

In the past, despite her opposition to Trump, Whitman has backed away from comments that she would vote for the Democrat (Greenwire, May 5).

Whitman conceded that Clinton has "many faults," citing her use of a private email server while she served as secretary of State during President Obama's first term. Nevertheless, Clinton would be "ready to govern" as president, according to the ex-EPA administrator.

"A Hillary presidency promises more of the Obama failed policies, but she would at least walk into the oval office ready to govern. She would be a steady hand on the nuclear code and she demonstrated a willingness to work across the aisle when she was in the Senate," Whitman wrote in the op-ed.

Whitman told centrist voters not to stay home on Election Day and to "please consider the long-term consequences of your choice and make that choice heard in November."

Whitman has been one of Trump's more vocal and earliest Republican critics and took aim again at the GOP nominee's rhetoric on the campaign trail in her statement.

"I was among the first in my party to criticize Donald Trump for his hate-mongering, racist, and sexist speech, all of which have no place in our nation's political discourse. His rant in the tapes released [Friday] is so demeaning to women that it should clarify once and for all that he is unfit to hold public office, and unworthy of representing our nation to the world," Whitman said.

She said that she has been a loyal Republican her whole life but that Trump does not follow the party's principles and debases its legacy.

"Make no mistake: those of us Republicans who have made clear we cannot vote for Trump are not leaving the party, we are remaining true to the principles that have guided the party for more than 150 years," Whitman said.

Other Republican EPA chiefs have thrown their support behind Clinton.

In August, Clinton released a joint statement by ex-EPA Administrators William Reilly and William Ruckelshaus that criticized Trump and endorsed the Democrat for president. That move came after some gentle lobbying by Clinton supporters, including former EPA chief Carol Browner ([Greenwire](#), Aug. 9).

## **CLIMATE:**

### **Natural gas is 'cul-de-sac' — McKibben**

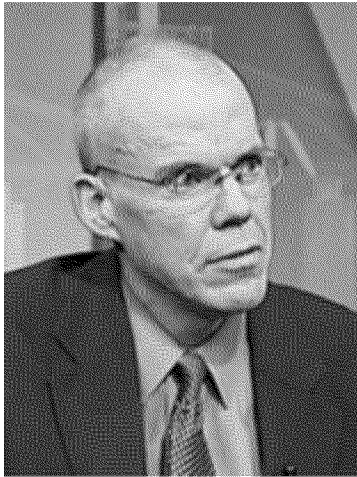
[Hannah Hess](#), E&E reporter

Published: Monday, October 10, 2016

Democratic presidential nominee Hillary Clinton hit a sour note with some environmentalists last night when she referred to natural gas as a "bridge to more renewable fuels" while laying out her energy policy.

Climate activists said Clinton's answer to the penultimate question in the contentious town-hall-style presidential debate should have focused on phasing out fossil fuels, but they bashed GOP nominee Donald Trump harder for an answer focused on how U.S. EPA is killing the energy industry.

"The answers we got revealed the fault lines in this election: Trump doubled down on fossil fuels, while Hillary talked about a clean energy future that doesn't leave anyone behind," said 350.org's May Boeve in a statement. "Her big mistake was naming natural gas as a bridge fuel — in reality, it's just a fast lane to more climate destruction."



350.org founder Bill McKibben. Photo courtesy of E&ETV.

Despite ire from environmental groups, President Obama has described natural gas in similar terms.

350.org founder Bill McKibben last week told a crowd that natural gas is a "cul-de-sac," not a bridge to cleaner forms of energy, and suggested the Obama administration had wasted the past seven years by pursuing the technology as an alternative to coal-fired power plants.

Speaking at Oberlin College during a conference titled "After Fossil Fuels: The Next Economy," McKibben talked about ramping up the pressure on the next president to address the issue. McKibben called on participants to come to Washington, D.C., if Clinton is elected for an "emergency climate summit" within the first 100 days of her presidency.

"If there are scientists gathered in the White House, we're going to need hundreds of thousands of people out in the street. And you're going to need to get on buses and trains and get from Ohio to D.C. for that day come April or May," McKibben told the crowd.

Despite a campaign by environmentalists urging debate moderators to press the candidates on climate, Clinton's answer to the energy question — posed by a voter — was the only time the subject was referenced.

Emily Southard, campaign director for ClimateTruth.org, said comments from the candidates were disheartening.

"Donald Trump claimed the EPA is killing American jobs, but climate change is the real economic threat that we can't afford," Southard said, noting the threats of worsening storms and sea-level rise.

"For her part, Secretary Clinton acknowledged the threat of global warming, but she didn't go far enough. Natural gas isn't part of the solution, it's part of the problem," Southard added.

Ahead of the debate, members of the ClimateTruth.org Action urged moderators to ask the candidates their plans to address and reduce the impact of climate change.

The left-leaning group, advised by prominent climate scientists including Penn State University's Michael Mann, works to counter the conservative movement and promote cuts in carbon emissions.

In a letter to CNN anchor Anderson Cooper and ABC News correspondent Martha Raddatz written Oct. 7,

in the wake of Hurricane Matthew's destruction, Executive Director Brant Olson said it is the next president's responsibility to reduce the risk of future disasters by cutting emissions and planning to protect American infrastructure and lives.

"The ClimateTruth.org Action members who signed this petition fight the denial, distortion, and disinformation that obstruct bold action on climate — and together, we can hold our presidential candidates accountable," Olson wrote.

More than 13,000 people signed the letter.

## **PUBLIC LANDS:**

### **BLM advancing controversial Calif. pumped storage hydro project**

Scott Streater, E&E reporter

Published: Monday, October 10, 2016

The Bureau of Land Management is nearing approval of a transmission line across federal land that is needed to operate a pumped storage hydroelectric project in the Southern California desert that some conservation groups strongly oppose.

The Federal Energy Regulatory Commission in June 2014 issued a license for Eagle Crest Energy Co.'s Eagle Mountain pumped storage project in Riverside County, which when built would have the capacity to produce about 1,300 megawatts of electricity — enough to power about 390,000 homes.

BLM is evaluating the 500-kilovolt power line, which would cross about 507 acres of agency-managed lands, and an associated water supply pipeline that would use about 154 acres of federal lands, as part of a right-of-way application by Eagle Crest Energy. The actual pumped storage hydroelectric project would also sit on about 489 acres of BLM land.

The power line would transport electricity from the site to Southern California Edison's Red Bluff substation located on BLM lands. The water line would draw water from an area below private land, traverse BLM land and fill the reservoirs at the pumped storage facility.

BLM released an [environmental assessment](#) (EA) analyzing the power line and water supply pipeline for the project late Friday, kicking off a 30-day public comment period running through Nov. 6.

BLM will compile and address "substantive" public comments in a proposed amendment to the California Desert Conservation Area resource management plan — required for all new projects that fall outside a designated utility corridor — and a draft decision record for the transmission line. A final decision record could be issued by year's end.

BLM's "preferred alternative" in the EA is to approve the right-of-way grant and amend the California Desert Conservation Area RMP.

The project is aimed at matching the ups and downs of energy demand on the regional grid, project proponents say.

Water would be pumped from the lower reservoir to the upper chamber during periods of low energy demand. When demand rises, water would be discharged through underground pipes that connect the higher reservoir to the lower pool ([E&ENews PM](#), Jan. 31, 2012).

The water would generate electricity by flowing through four reversible pump-turbine units, and the transmission line would transport power to the regional grid.

BLM says in the EA that the project "is capable of providing unique benefits that support the integration of new renewable resources facilities to meet California's Renewable Energy Portfolio Standard goals, therefore contributing to attainment of state goals for reduction of emissions of greenhouse gases."

But the location of the proposed project, only about 2 miles from Joshua Tree National Park, has garnered concern from conservation groups and even the National Park Service.

The National Parks Conservation Association released a statement Friday saying that the project would be bad news for the Eagle Mountain area and would "deplete groundwater resources, inflate the population of ravens that prey on desert tortoise and disrupt critical bighorn sheep corridors."

Seth Shteir, NPCA's California desert program manager, said the project poses "severe and irreversible threats" to neighboring Joshua Tree National Park.

Shteir said it was wrong for BLM to tie the EA to a FERC environmental impact statement finalized in 2012, noting that the Interior Department several years ago challenged aspects of the FERC analysis.

"And yet, inexplicably, BLM is still allowing this process to move forward," he said.

Shteir notes that BLM's EA acknowledges sections of the transmission line corridor would fall within areas that the recently finalized federal portion of the Desert Renewable Energy Conservation Plan designated as areas of critical environmental concern.

"The approval of the transmission line contradicts the Interior Department's plan, which took years and millions of taxpayer dollars to develop," he said.

BLM needs to take a much more comprehensive look at the project's overall impacts, he said.

"It is clear that a full reckoning of the project and its impacts to Joshua Tree National Park, BLM wilderness areas and local communities is needed," he said. "NPCA echoes the call by local communities, including the Palm Springs City Council and mayor of Cathedral City, in urging the BLM to provide such in-depth analysis, instead of rushing to advance this proposal."

The right-of-way application has been under BLM review since March 2009, according to the EA.

And BLM notes in the EA that the power line from the hydro project would run adjacent to an existing line operated by Southern California Edison.

FERC's environmental impact statement for the project included formal consultation with the Fish and Wildlife Service on potential impacts to the federally protected desert tortoise.

Fish and Wildlife issued a biological opinion that included measures designed to minimize incidental killing or harming of the tortoise.

## **PUBLIC LANDS:**

### **Utah officials fretting over federal forest plans**



Published: Monday, October 10, 2016

Federal land managers are moving to restructure land-use plans for four of Utah's five national forests, creating concern among some state and local officials that grazing access and other current land policies may be curtailed.

But the plans currently on the books are at least 30 years old, officials say, and new plans are needed due to massive ecosystem and industrial shifts.

Aspen forests have been suffering; groves of spruce have been killed by beetles; and the mining, timber and livestock sectors have all seen significant changes.

"This [new plan] establishes strategic frameworks for management of the forest to allow multiple use for the next 15 years," said Blake Bassett, planning coordinator for the Manti-La Sal National Forest. "We are stewards of a precious resource, and we want to know how the public wants them to be managed. One interest group is not going to outweigh another."

But state lawmakers charged that Forest Service officials were trying to propose new wilderness areas because of preliminary maps that showed potential wildernesses.

But Forest Service representatives said that the maps merely show inventories of roadless land.

"We just had an inventory, and people are worried we have an agenda for that, and I understand that," said John Erickson, forest supervisor of the Ashley National Forest. "Forest Service can't create wilderness; that's an act of Congress. I don't know what we will recommend — if anything."

But state officials weren't so sure.

"We are kind of groping in the dark trying to understand it. There is a degree of alarm because it is a different [planning] process," said Utah public lands policy director Kathleen Clarke (Brian Maffly, [Salt Lake Tribune](#), Oct. 9). — **GD**

## **DROUGHT:**

### **Evidence of mass extinction in Calif. Bay Area — study**

Published: Monday, October 10, 2016

Scientists say they might be seeing evidence of what they call Earth's sixth mass extinction in California's San Francisco Bay and its estuary.

A new study shows that so little water is flowing into the estuary from surrounding rivers that the ecosystem is collapsing.

Humans are taking so much water from the rivers that species like the delta smelt are being pushed toward extinction, according to the scientists at the Bay Institute, an environmental group.

State regulators have already noticed the trend and could use the study to bolster their case for drastic water restrictions in San Francisco and the Bay Area.

California officials moved last month to restore 40 percent of the naturally flowing water during spring in the San Joaquin River and its tributaries ([Greenwire](#), Sept. 16).

"You don't have to look far to find documentation of the sixth extinction," said Peter Moyle of the University of California, Davis, who is not connected with the study. "It's happening now in California" (Carolyn Lochhead, *San Francisco Chronicle*, Oct. 8). — **CS**

## **WILDLIFE:**

### **Melting permafrost unleashes reindeer 'zombie infection'**

Published: Monday, October 10, 2016

Abnormally warm temperatures may have thawed permafrost soil in northern Russia and awakened a "zombie infection" in the reindeer population.

The anthrax outbreak may kill 100,000 reindeer, according to a governor in Russia's far north. Scientists say another 200,000 need to be culled.

The first outbreak since 1941 in the Yamal-Nenets region killed a 12-year-old boy and over 2,500 reindeer this summer.

Thawing of the permafrost can release frozen bacteria. Overpopulation may be leading to overgrazing, which destroys the plant cover that serves as a buffer against permafrost thawing in the sunlight.

"If steps aren't taken, there will be a mass die-off in the near future," said Vladimir Bogdanov of the Institute of Plant and Animal Ecology of the Russian Academy of Sciences' Urals division. "The animals won't hold out against lack of fodder and various diseases" (Alec Luhn, *London Guardian*, Oct. 9). — **CS**

## **AIR POLLUTION:**

### **EPA agrees to review flaring emissions formula**

Sean Reilly, E&E reporter

Published: Monday, October 10, 2016

U.S. EPA will revisit a key gauge for estimating emissions of volatile organic compounds from natural gas production flaring operations under a tentative settlement to a lawsuit brought by four Gulf Coast environmental groups.

The proposed consent decree was lodged Friday afternoon with the U.S. District Court for the District of Columbia as part of a prearranged agreement one day after the suit was filed. It calls on EPA to review the "emissions factor" by next June, with a final decision on any revisions following by February 2018.

In the suit, Air Alliance Houston and the other plaintiffs alleged that EPA hadn't looked at the formula since 1985, contrary to a Clean Air Act requirement for reviews every three years.

The upshot could be misleadingly low estimates of emissions of volatile organic compounds, a key contributor to smog, the suit alleged.

The proposed settlement, which still needs a judge's approval, "is important for public health reasons

because people who live downwind from drilling and fracking sites have a right to accurate information about how much air pollution they are breathing," said Sparsh Khandeshi, an attorney for the Environmental Integrity Project, in a press release. Khandeshi was one of the lawyers representing the plaintiffs.

In this instance, the existing emissions factor estimates that 5.6 pounds of volatile organic compounds (VOCs) are released from flares for every million cubic feet of gas produced.

But that estimate assumes that flaring achieves a 98 percent destruction efficiency, while more recent EPA and Bureau of Land Management regulations assume that the rate is 95 percent, the suit said.

The other three plaintiffs are the Community In-Power and Development Association, based in Port Arthur, Texas; Louisiana Bucket Brigade; and Texas Environmental Justice Advocacy Services.

If EPA decides that changes are warranted to the existing emissions factor, many of the approximately 1 million natural gas drilling and production sites around the United States could be affected, according to Friday's release.

VOCs are a class of chemicals that include benzene, toluene and formaldehyde. In sunlight, they react with nitrogen oxides to form ozone, a lung irritant that is the primary ingredient in smog.

EPA relies heavily on emissions factors — which number more than 1,700 for some 200 different pollutants — as a substitute for direct monitoring. Last year, in response to a 2013 suit by the same four plaintiffs, the agency released a package of eight revised or new emissions factors for the chemical manufacturing and refinery industries (*Greenwire*, April 21, 2015).

The earlier suit was brought after sampling registered VOC levels over Houston oil refineries that were far higher than what industry reported, based on the emission factors in use at that time, Friday's press release said. The revised formulas showed that flares from refineries and chemical plants were releasing VOCs at about four times the levels of previous estimates.

"Members of industry have a saying, 'What gets measured gets improved,'" said Adrian Shelley, executive director of Air Alliance Houston, in a statement. "Only by accurately measuring emissions can we reduce pollution and protect public health."

## **OREGON STANDOFF:**

### **1 Bundy to another at trial: 'How ya doing?'**

Published: Monday, October 10, 2016

Ryan Bundy questioned his brother Ammon on the witness stand last week during the ongoing trial over their occupation of the Malheur National Wildlife Refuge.

"Mr. Bundy, how ya doing?" Ryan Bundy began.

"Good," said Ammon Bundy, the younger brother. "How you doing brother?"

The questioning has piqued the interest of legal watchers because examinations between two defendants who are brothers rarely happen. One brother served as his own lawyer while the other testified for his own defense.

"I can't remember another case like this," said Margaret Paris, a law professor at the University of Oregon.

Ryan Bundy aimed to prove he had no prior knowledge of his brother's planned takeover until hours before the sanctuary's occupation.

"How long have you known me?" Ryan Bundy asked.

"For my whole life," the younger Bundy responded.

"Did we work, did we play, did we wrestle, did we care for each other our whole lives?" Ryan Bundy asked.

"Yes," replied Ammon Bundy.

Another question from Ryan Bundy: "Do we share common concerns?"

"Absolutely," responded Ammon.

But the younger Bundy went on to say that he and his brother did "[a]bsolutely not" speak about the refuge takeover beforehand.

"I know you weren't very prepared for the cold weather," Ammon Bundy told his brother (Maxine Bernstein, [Portland Oregonian](#), Oct. 9). — **GD**

## **WILD HORSES:**

### **Advocates sue BLM to block roundup**

Published: Monday, October 10, 2016

In an effort to block a horse roundup this month east of Rock Springs, Wyo., wild horse advocates are suing the Bureau of Land Management.

BLM plans to remove wild horses from land designated "herd-management areas" in south-central Wyoming.

The lawsuit filed last week argues that it is illegal for BLM to fully remove wild horses from any piece of public land without proper consultation.

Wild horses would be removed from a checkerboard region where ownership is split into blocks of public land. The private land is owned by the Rock Springs Grazing Association, and BLM is required to keep horses off the checkerboard so that they do not enter private land, according to a 2013 decree.

Advocates accuse BLM of improperly using a process for removing horses on private land to round up horses across the public land in the checkerboard (Arno Rosenfeld, [Billings Gazette](#), Oct. 7). — **CS**

## **AIR POLLUTION:**

### **EPA will revisit refinery regs**

Sean Reilly, E&E reporter

Published: Monday, October 10, 2016

U.S. EPA will reconsider five parts of its latest oil refinery emissions regulations following complaints from industry and environmental groups that the agency failed to provide an adequate public comment period.

The agency had formally issued the revised regulations last December. Under a proposed rule now awaiting publication in the *Federal Register*, EPA officials said in an accompanying fact sheet that they will now re-examine:

- Work practice standards for pressure relief devices.
- Work practice standards for emergency flaring.
- How well the agency assessed risk from the implementation of the pressure relief device and flaring standards in the overall acceptability decision.
- A fence-line monitoring provision that allows refineries to sample less frequently at stations that consistently record low benzene concentrations.
- And a delayed coker water overflow alternative provision.

EPA Administrator Gina McCarthy signed the proposed rule Thursday. When published, it will carry a 45-day public comment period; EPA will also hold a public hearing if asked to.

The regulations, which affect almost 150 refineries nationwide, encompass New Source Performance Standards and maximum achievable control technology requirements. They stem from a 2014 consent decree reached after Air Alliance Houston and other environmental groups sued over EPA's failure to meet an eight-year deadline for review and revision of the new source standards. They are ultimately expected to cut releases of toxic air pollutants by 5,200 tons annually, accompanied by 50,000 tons of reductions in emissions of volatile organic compounds.

After the regulations were released, EPA received three petitions for reconsideration. Two were filed jointly by the American Petroleum Institute and American Fuel & Petrochemical Manufacturers; the third came from Earthjustice on behalf of Air Alliance Houston and eight other environmental organizations.

Most of the same groups are now embroiled in legal challenges to the revised standards filed with the U.S. Court of Appeals for the District of Columbia Circuit.

The consolidated litigation has effectively been on hold since March as all sides awaited EPA's decision on the reconsideration petitions. As of this morning, none of the plaintiffs had indicated what their next move in the legal proceedings would be, according to filings in the federal courts' online records system.

## **AIR POLLUTION:**

### **McCarthy, Jewell tout cleaner air in parks**

Published: Monday, October 10, 2016

Stricter air pollution laws have led to greater visibility at the nation's national parks, but more work is still needed, according to Obama administration officials.

Interior Secretary Sally Jewell and U.S. EPA administrator Gina McCarthy visited Shenandoah National Park in Virginia last week, where visibility can reach 120 miles on a clear day.

Not long ago, "the air quality here was not like this," said Jewell. Just a few decades ago, average visibility at the park was roughly 35 miles, but today it stands at 60 miles.

But haze still plagues many national parks, an issue that environmental groups hope EPA will address before the year is out. "Haze is nothing but pollution that's in the air and meets sunshine," said McCarthy, "which means we're trying to reduce overall pollution that really has significant health hazards."

EPA's regional haze program mandates that states submit plans to increase visibility in parks through cutting pollution. Such a move has raised the ire of some conservatives.

"The Obama administration is misinterpreting and misusing federal agencies to force through a radical agenda based more on the beliefs of his environmentalist base than on common sense," said Ken Paxton (R), Texas' attorney general, earlier this year.

But McCarthy pushed back. "We're talking about improvements to places like the Grand Canyon, to some of the most beautiful national parks," she said. "So it's hard to argue that these steps aren't both appropriate and reasonable, but also sort of expected" (Brady Dennis, *Washington Post*, Oct. 7). — **GD**

## **ZIKA VIRUS:**

### **Hurricane Matthew creates new mosquito breeding grounds**

Published: Monday, October 10, 2016

Hurricane Matthew left behind destruction, death and new breeding grounds for the Zika virus.

The virus, which has established itself in south Florida, could start moving up the coast after Hurricane Matthew left large and small standing bodies of water where mosquitoes can breed.

"It knocks a lot of stuff down so you just have a lot more things in which the mosquito can breed," said Philip Stoddard, a professor at Florida International University and the mayor of South Miami.

"A damaged rain gutter, for instance, now becomes a rain collector. Every little object that blows off a house or even a chair flipped over on a porch becomes a container for mosquitoes to breed."

Flooding will wash away young mosquitoes, and adult mosquitoes will be killed by strong wind gusts. But the ones that survive will have ample opportunity over the next few weeks to boost populations (Franco Ordoñez, *Sacramento Bee*, Oct. 9). — **CS**

## **HAITI:**

### **Mass-grave burials as hurricane's death toll climbs**

Published: Monday, October 10, 2016

In the wake of Hurricane Matthew, Haiti has begun burying some of its dead in mass graves. The death toll from the storm rose to 1,000 people, and cholera is spreading in the devastated southwest region.

The storm is being called the fiercest Caribbean hurricane in a decade and left 1.4 million people in need of assistance. It hit Haiti on Tuesday with 145-mph gusts and torrential rainfall.

Because bodies were beginning to decompose, authorities started digging mass graves, according to Kedner Frenel, the most senior central government official in the Grand'Anse region.

Frenel said a top priority is getting water, food and medication for the thousands of people living in shelters who are at risk of cholera. The disease, which spreads through contaminated water, causes severe diarrhea and can kill within hours if untreated (Joseph Guyler Delva, [Reuters](#), Oct. 10). — **AS**

## **UNITED KINGDOM:**

### **Butterfly population dive shocks scientists**

Published: Monday, October 10, 2016

The number of butterflies in the United Kingdom hit a record low this summer, according to nonprofit Butterfly Conservation.

Biologists said the new data are "a shock and a mystery" because the summer in England was warmer and drier than average, which should have been a boon for the winged creatures.

Previously, the worst year for butterflies had been 2012, which was wet and cold. In 2016, certain species dropped by as much as 47 percent compared to 2015.

"The drop in butterfly numbers this summer has been a shock," said Richard Fox with Butterfly Conservation, which has been running a "Big Butterfly Count" since 2010.

"When we have cold, wet summers, as in 2012, we expect butterfly populations to plummet, but that wasn't the case this year ... Perhaps the impacts of intensive farming and pesticides are really hitting these common species now," he said.

The British Isles' milder-than-normal winter could be to blame for the decline in butterflies, Fox said. He indicated that caterpillars may have emerged early from hibernation, and then died during a colder spring (Patrick Barkham, [London Guardian](#), Oct. 10). — **GD**

## **CANADA:**

### **Expiring lumber truce with U.S. could restart trade spat**

Published: Monday, October 10, 2016

A decadelong truce over softwood lumber trade between the United States and Canada is set to expire this week, potentially reigniting a trade battle for the fifth time since the 1980s.

The U.S. lumber industry will be legally allowed to file a damaging trade case at midnight on Oct. 12. The

U.S. industry could contend that Canadian provinces, which control about 90 percent of available timber, subsidize lumber companies. The U.S. industry's argument is that the provinces charge the lumber companies too little, whereas in the United States most timber is owned by the private sector and is sold at auction.

The last four subsidy allegations have failed, but that is unlikely to stop U.S. producers from trying again.

Canadian provinces have reformed their timber licensing regime to be more responsive to market conditions, whereas U.S. tariffs were declared unjustified by a North American Free Trade Agreement dispute settlement panel because subsidies were too small.

Still, trade litigation can be long, expensive and potentially pointless — placing pressure on Canadian producers to accept settlement offers (Barrie McKenna, *Toronto Globe and Mail*, Oct. 9). — AS



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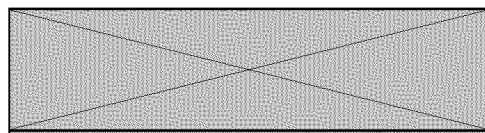
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